

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re EXPRESS SCRIPTS, INC.,
PBM LITIGATION

Master Case No. 4:05-md-01672-SNL

This Document Relates to:
Case No. 4:05-cv-00828-SNL-Lynch

**STIPULATION OF DISMISSAL WITH PREJUDICE OF COUNTS II, III,
IV, V AND VI OF PLAINTIFF PATRICK J. LYNCH'S COMPLAINT AND ALL
CLAIMS SEEKING TO CERTIFY THE PUTATIVE SUBCLASS
SET FORTH IN THE COMPLAINT**

Pursuant to Fed.R.Civ.P. 41(a)(1)(ii), Plaintiff Patrick J. Lynch, as Trustee of the Health and Welfare Fund of the Patrolmen's Benevolent Association of the City of New York and the Retiree Health and Welfare Fund of the Patrolmen's Benevolent Association of the City of New York ("LYNCH") and Defendants National Prescription Administrators, Inc. ("NPA") and Express Scripts, Inc. ("ESI") hereby stipulate and agree to the immediate dismissal with prejudice of:

- (i) Counts II, III, IV, V and VI of LYNCH's Complaint; and
- (ii) All of LYNCH's claims contained in the Complaint seeking to certify a putative "subclass" consisting of all current and former self-funded ERISA employee benefit Plans for which NPA and/or ESI serve or have served as the Plan's PBM.

Each party shall bear their own respective costs incurred with respect to Counts II through VI and the "subclass" claims referenced above. Further, this dismissal shall not

affect the ability of any of the other plaintiffs in these MDL proceedings from asserting ERISA-based claims, nor shall it affect the Defendants' defenses to any such claims.

This Stipulation of Dismissal with Prejudice of Counts II, III, IV, V and VI of Plaintiff Patrick J. Lynch's Complaint and All Claims Seeking to Certify the Putative Subclass Set Forth in the Complaint is entered into by and between all parties that have appeared in this litigation as of this 1st day of September, 2005.


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Prescription Administrators, Inc. and
Express Scripts, Inc.

SO ORDERED on this 2nd day of September, 2005.


HON. STEPHEN N. LIMBAUGH
SENIOR UNITED STATES DISTRICT JUDGE